

## REMARKS/ARGUMENTS

### **I. Status of Claims**

- Claims 1-7 and 10-13 are canceled.
- Claims 8, 9, and 14-20 are withdrawn.
- Claims 21-35 are new.
- Claim 21 is the only Independent Claim.
- Claims 1-7 and 10-13 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
- Claims 1, 2, 10, and 11 are rejected under 35 U.S.C. § 102(a) and 102(e) as being anticipated by Wagner et al. (U.S. Patent No. 6,329,209 B1, published Dec. 11, 2001 and filed July 14, 1999) (hereinafter referred to as **Wagner**).
- Claims 1-4, 10, and 11 are rejected under 35 U.S.C. § 102(b) as being anticipated by Heller et al. (U.S. Patent No. 6,245,508 B1, June 12, 2001) (hereinafter referred to as **Heller**).
- Claims 3 and 4 are rejected under 35 U.S.C. § 103(a) as being unpatentable over **Wagner** in view of **Heller**.
- Claim 5 is rejected under 35 U.S.C. § 103(a) as being unpatentable over **Wagner** in view of **Heller** as applied to claims 3 and 4, and further in view of Bier (U.S. Patent No. 4,040,940, Aug. 9, 1977) (hereinafter referred to as **Bier**).
- Claim 5 is also rejected under 35 U.S.C. § 103(a) as being unpatentable over **Heller** in view of **Bier**.

- Claim 6 is rejected under 35 U.S.C. § 103(a) as being unpatentable over **Wagner** in view of **Baselt** (U.S. Patent No. 5,981,297, Nov. 9, 1999) (hereinafter referred to as **Baselt**).
- Claim 6 is also rejected under 35 U.S.C. § 103(a) as being unpatentable over **Heller** in view of **Baselt**.
- Claims 7, 12, and 13 are rejected under 35 U.S.C. § 103(a) as being unpatentable over **Wagner** in view of **Baselt** as applied to claim 6, and further in view of Smith et al. (U.S. PG Publication No. US 2002/0001803 A1, published Jan. 3, 2002 and filed on July 20, 1999) (hereinafter referred to as **Smith**).
- Claims 7, 12, and 13 are also rejected under 35 U.S.C. § 103(a) as being unpatentable over **Wagner** in view of **Baselt** as applied to claim 6, and further in view of **Smith**.

## II. Examiner Interview Summary

Applicants and their agent expressly thank Examiner for taking her time to have a phone Examiner Interview at 10:30 AM on Thursday, September 18, 2008. Applicant Victor Morozov, Agent David Yee, and Examiner Unsu Jung were present for the phone call.

In summary, Applicants faxed proposed draft claim amendments to Examiner Jung on Wednesday, September 17, 2008. During the interview, Examiner stated that the faxed, proposed draft claim amendments overcome all of the prior art cited in the June 20, 2008 office action because none of the cited prior art teaches using two semi-permeable membranes.

In addition, some modifications were made to the faxed, proposed draft claim amendments. Examiner Jung suggested that the faxed, proposed draft claim 21 appeared to be missing a link (perhaps such as reversing a force) with respect to detecting analytes. Both Examiner Jung and Applicant Morozov believe that including the removal of analytes that are

unbound or weakly bound to the first probe molecules would suffice. Hence, faxed, proposed draft claim 21 was modified as such.

Furthermore, the word "layer" was added after the word "surface" in the faxed, proposed draft claim 33. Faxed, proposed draft claims 34 and 36 were deleted. The words "creating a microtiter plate" in the faxed, proposed draft claim 37 were deleted.

All of these modifications were acceptable to Examiner.

### **III. Response**

#### **A. The new Independent Claim 21 overcomes both Wagner and Heller.**

Based on the September 18, 2008 Examiner Interview, the claim amendments overcome **Wagner** for purposes of § 102(a) and 102(e), as well as **Heller** for purposes of § 102(b). See supra § II; see also supra Amendments to the Claims. Support for the claim amendments can be found, for example, in the Abstract, Figures 1-3, 8, 15, and 18-24 of the Specification, and paragraphs [0054]-[0104] and Examples 7 (paragraphs [0238]-[049]), 8 (paragraph [0250]), and 11 (paragraphs [0255]-[0260]) of the Specification.

With **Wagner** and **Heller** overcome, Applicants respectfully request Examiner to withdraw the § 102 rejections.

#### **B. Because Wagner is overcome, Wagner cannot be combined with Heller, Bier, Baselt and/or Smith.**

With **Wagner** now overcome by the claim amendments, the § 103(a) rejections based on any prior combination with **Wagner** are now moot. Hence, Applicants also respectfully request Examiner to withdraw these § 103 rejections.

#### **C. Because Heller is overcome, Heller cannot be combined with Bier, Baselt and/or Smith.**

Similarly, with **Heller** now overcome by the claim amendments, the § 103(a) rejections based on any prior combination with **Heller** are now moot. Hence, Applicants also respectfully request Examiner to withdraw these § 103 rejections.

#### **IV. Conclusion**

If Examiner's next prior art search does not result in any prior art that can be used to reject the amended claims, Applicants believe the amended independent claim and all their dependent claims would be in condition for allowance. In such event, Applicants respectfully request Examiner to allow the amended claims.

Should there are any outstanding issues that might be resolved by an interview or an Examiner's Amendment, Applicants request that the Examiner call the Applicants' agent at the telephone number shown below.

#### **V. Deposit Account**

Applicants hereby authorize the Commissioner to credit or debit any outstanding fees in connection with this patent application using Deposit Account No. 50-3212.

Respectfully submitted,

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